

REMARKS

In the Office Action claims 21-29 have been rejected under 35 USC 103(a) over Itoh in view of Lo, and further in view of Truc et al (USP 6,882,359). As has been established previously in prosecution, the Lo and Itoh references cannot be combined to teach a system of "requesting data wherein the system polls a local location and the data" (language from the Office Action). For this missing element, the rejection points to the tertiary reference, Truc, at column 10, lines 6-14 thereof.

Turning to the newly-cited reference, Truc may indeed show an instance of polling a file in a scanning context; but otherwise is irrelevant to the claimed invention. Truc is directed to a self-contained, non-network film scanner, in which analog slides and film strips are scanned and their images converted to digital data. The overall scanning function of the Truc apparatus starts at column 9, line 51; the passage cited in the rejection as showing the recited feature is at column 10, lines 6-14. Throughout the discussion, however, the image data in Truc stays within a single system, with no network communication, no "ports," and no "destination computer among a population of destination computers," features essential to the novel and unprecedented aspects of the claimed invention. "Polling" is of course a well-known concept in computer science; but Truc lacks any relevance to network communication. There is no intermediate server in Truc, but only because there is no pretense of network communication in Truc. There is no reason a person of ordinary skill in the art of network communication to a destination computer would look to Truc at all.

Previously in prosecution, a finding of obviousness by a combination of Itoh and Lo references was successfully refuted. Adding Truc as a tertiary reference adds nothing to the argument. While Truc mentions "polling" in the context of scanning, the overall teaching of Truc is limited to polling a file in a single apparatus and not, as claimed, "a destination computer among a population of computers;" and no combination of references teaches the claimed feature of "image data moving from the input scanner *directly to a port* associated with the destination computer." For this reason, claim 21, along with its dependent claims 22-29, is patentable in view of the references.

The claims are therefore in condition for allowance.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby requested to call the undersigned attorney at (585) 423-3811.

Respectfully submitted,

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